

Appl. No. : **10/776,083**
Filed : **February 11, 2004**

REMARKS

Claims 1-22 and 103-116, and 124 are now pending in the present application, new Claim 124 having been added.

In response to the Final Office Action mailed June 24, 2008, Applicant respectfully requests the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments.

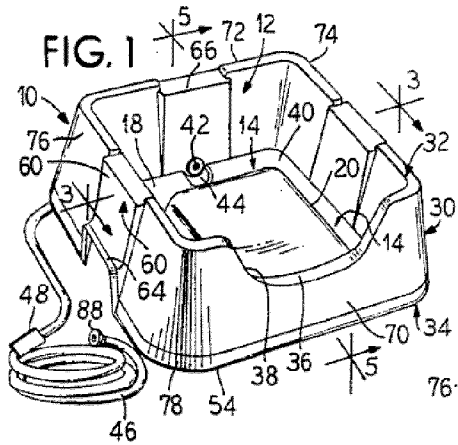
Holloway Does Not Disclose the Medical Kit Recited By Amended Claims 2, 4, 5, 13, 14, 16-22, 103-106, 108-110, and 112-116

Claims 2, 4, 5, 13, 14, 16-22, 103-106, 108-110, and 112-116 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Holloway *et al.* (U.S. Patent No. 5,381,562) (“Holloway”). Applicant respectfully traverses the present rejection. However, to expedite the prosecution of the present application, Applicant has amended Claims 2, 5, 13, and 103. Applicant also expressly reserves the right to further prosecute the original versions of Claims 2, 4, 5, 13, 14, 16-22, 103-106, 108-110, and 112-116 through continuation practice.

Claims 2 and 103

Holloway discloses a basin having a contoured bottom and a substantially continuous sidewall. The basin in Holloway has an outlet in fluid communication with a channel formed in the bottom of the basin. The outlet is connected with a drainage system disposed outside the basin. The drainage system is releasably connected to the outlet, which continuously permits fluid to pass therethrough.

However, Holloway **fails to teach a device that can be and includes all of the components required for conversion between a normal basin and a basin that has a drain.** Rather, as shown in the adjacent reproduced portion of Figure 1 of Holloway, the device in Holloway includes a hole in the basin that has a hose attached thereto.



Applicant recognizes that the Examiner has cited column 7, lines 3-15 of the Holloway reference. This passage of the Holloway reference states the following:

The outlet 42 is preferably dimensioned such that a drainage system can be releasably adapted in liquid-tight sealable relationship. Preferably the drainage system includes a hose 46 and a clamp means 48 for controlling the removal of liquid from the channel 40 and away from the basin. By way of illustration and not by limitation, a useful preferred drainage system is shown in FIGS. 5 and 6, and is designated generally by the numeral 80. It is to be understood that any drainage system suitable for a basin embodying the principles of this invention comes within the scope of this invention.

Applicant submits that the phrase “liquid-tight sealable relationship” in the above portion of the Holloway reference, as well as a similar phrasing used in lines 30-34 of column 7, merely means that the **hose 46** is connected to the **outlet 42** in a liquid-tight manner. This passage does not, however, disclose any system or device whatsoever to convert the basin from a mode where fluid is **confined** within the sidewalls to a mode where the fluid can be drained through the side wall. Rather, Holloway only discloses that the **outlet 42** is either open, or a **hose 46** (or other drainage system) is attached to the outlet 42.

Applicant notes that when the **hose 46** is attached to the outlet 42, the fluid is not ***confined*** within the sidewalls and bottom of the basin. Rather, the fluid in the basin flows into the hose.

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Finally, Applicant recognizes that the Examiner has indicated that the clamp 48 or the plug 88 can be considered as confining fluid within the sidewall. Applicant disagrees. Rather, Applicant submits that the clamp or plug 88 merely confine fluid within the **hose 46** and thus prevent *additional* fluid from draining from the basin. However, such a clamp or a plug do not *confine* fluid within the basin. This is an important difference because with such a hose extending off of the basin of Holloway, the basins cannot easily be stacked when used in the non-draining fluid mode. Rather, the hose extending off of the basin would prevent orderly stacking of such devices.

In contrast, Claim 2 recites, “[a] medical kit comprising at least one basin with a sidewall portion and a bottom wall portion; and a **conversion device** on at least one of the sidewall portion and the bottom wall portion, the conversion device **configured to confine fluid within the sidewall and bottom wall** portions of the basin in a **first state** and to **form a drain in a second state**, through which fluid inside the basin can be drained through the at least one of the sidewall and bottom wall portions.” (Emphasis added).

Similarly, Claim 103 recites, “[a] medical basin for collecting fluid during irrigation of a wound on a human anatomy comprising at least one sidewall and a bottom, the at least one sidewall and the bottom defining a cavity and at least one convertible portion in at least one of the bottom and the at least one sidewall, wherein the at least one convertible portion is configured to confine fluid within the basin by inhibiting fluid from passing through the at least one sidewall and bottom and define an aperture through the at least one sidewall and bottom when the at least one convertible portion is modified.”

Thus, unlike the basin in Holloway, amended Claims 2 and 103 are directed to medical kit or basins having a conversion device configured to confine fluid within the sidewall and bottom wall portions of the basin in a first state and to form a drain in a second state, through which fluid inside the basin can be drained through the at least one of the sidewall and bottom wall portions.

This distinction is important because it allows the basin to have **dual functionality**, e.g., the basins of Claims 2 and 103 can be used as a conventional basin, **and** it can be conveniently converted into a basin that can be actively drained with suction. This is different than the outlet of

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the basin in Holloway, which is not adapted to confine fluid within the sidewall and bottom portions of a basin in either a first or second state.

Kits or basins constructed in accordance with Claims 2 or 103 advantageously allows a user to retain fluid within the basin without the need for an external drainage system while still permitting a user to introduce a drainage system when desired. The basin recited in Holloway cannot.

Therefore, Holloway fails to disclose or suggest the basin recited in Claims 2 and 103. For at least this reason, Applicant respectfully requests the Examiner withdraw the rejection of Claims 2 and 103 and pass this claim to allowance.

Additionally, Applicant submits that Claims 4, 17-22, 104-106, 108-110, and 112-116 also define over the cited reference, not only because they depend from Claim 2 or 103, but also on their own merit. Accordingly, Applicant respectfully requests the Examiner withdraw the rejection of Claims 4, 17-22, 104-106, 108-110, and 112-116 and pass these claims to allowance.

Claim 5

As noted above, Holloway discloses a basin having an outlet through which fluid passes to an external drainage system. In the embodiment illustrated in Figures 1-6 of Holloway, the outlet is connected to the drainage system with a threaded fastener. Other outlets can be used, but Holloway only discloses outlets comprising an aperture in either the sidewall or bottom portions of the basin. Holloway does not disclose a solid sidewall or bottom portion which is openable to permit fluid to flow.

By contrast, Claim 5 recites, “[a] medical kit comprising at least one basin with a sidewall portion and a bottom wall portion; and a convertible portion comprising a frangible portion of the basin, the convertible portion is configured to provide a substantially leak-proof barrier on at least one of the sidewall portion and the bottom wall portion in a first state and to form a drain in a second state, through which fluid inside the basin can be drained.”

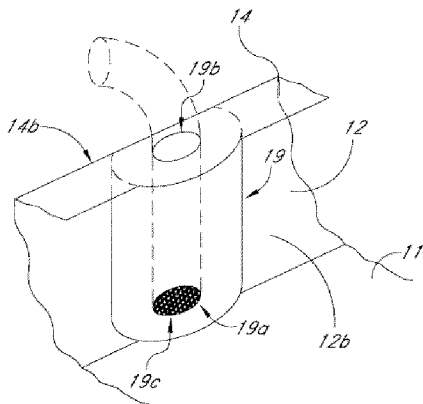
Unlike the basin in Holloway, Claim 5 recites, among other recitations, a convertible portion comprising a frangible portion of the basin. Thus, the basin recited in Claim 5 has at least a portion of either the sidewall or bottom portions which can be used as a conventional basin and, if desired, can be conveniently broken to permit fluid communication from within the basin to the outside of the basin. Holloway does not disclose a basin having a frangible portion. Accordingly,

Holloway does not anticipate amended Claim 5. Applicant respectfully requests the Examiner withdraw the rejection of Claim 5 and pass this claim to allowance.

Claim 13

Holloway id discussed above. The outlet of Holloway is disclosed to place the interior of the basin in fluid communication with a drainage system. The outlet in Holloway extends from **the interior of the basin to the exterior of the basin**, at the bottom edge thereof, allowing fluid to be drained from the basin. Holloway does not disclose an outlet or other cannula having a first end adjacent an **upper edge** of the sidewall portion and a second end below the first end, **adjacent the bottom** of the basin.

By contrast, Claim 13 recites, “[a] medical kit comprising at least one basin with a sidewall portion and a bottom wall portion and a tube having a first end disposed at an upper edge of the sidewall portion and a second end disposed at the bottom of the sidewall portion.”



Thus, unlike the basin in Holloway, amended Claim 13 recites, among other recitations, a tube having a first end disposed at an upper edge of the sidewall portion and a second end disposed at the bottom of the sidewall portion. For example, as shown in the adjacent reproduction of Figure 2G of the present Application, a tube 19 extends from a lower elevation within the basin to a higher elevation within the basin, allowing fluids to be drained from the bottom of the basin at a position at or near the upper edge of the sidewall portion. Additionally, in this alternative embodiment, it is not necessary to break or open a hole through the wall of the basin. Rather, this embodiment allows the basin to be converted freely between a conventional basin with no drain, and a basin with a drain.

Holloway does not disclose or suggest a tube having a first end disposed at an upper edge of the sidewall portion and a second end disposed at the bottom of the sidewall portion. Rather, Holloway only discloses an outlet with a first end in fluid communication with the bottom of the basin and the other end outside the sidewall of the basin, at substantially the same height.

Accordingly, Holloway does not anticipate Claim 13. Applicant respectfully requests the Examiner withdraw the rejection of Claim 13 and pass this claim to allowance.

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Additionally, Applicant submits that Claims 14 and 16 also define over the cited reference, not only because they depend from Claim 13, but also on their own merit. Accordingly, Applicant respectfully requests the Examiner withdraw the rejection of Claims 14 and 16 and pass these claims to allowance.

New Claim 124 Is in Condition For Examination On Its Merits

By way of the present Amendment, Applicant has added new Claim 124 which is fully supported by the Specification as originally filed. Thus, no new matter has been introduced. Additionally, Applicant submits that new Claim 124 defines over the cited references, not only because it depends from Claim 2, but also on its own merit.

SUMMARY

For the reasons described above, Applicant respectfully request the Examiner withdraw the rejection of the claims and pass Claims 1-22 and 103-116 to allowance.

The undersigned has made a good faith effort to respond to all of the rejections and objections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: December 23, 2008

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